

ORDER NO. 3162

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Market Test of Experimental Product-
Global eCommerce Marketplace (GeM)
Non-Published Rates

Docket No. MT2016-1

NOTICE AND ORDER CONCERNING MARKET TEST OF EXPERIMENTAL
PRODUCT—GLOBAL ECOMMERCE MARKETPLACE (GEM) NON-PUBLISHED
RATES

(Issued March 18, 2016)

I. INTRODUCTION

In accordance with 39 U.S.C. 3641 and 39 CFR 3035.3, the Postal Service filed notice of its intent to conduct a market test of an experimental product called Global eCommerce Marketplace (GeM) Merchant.¹ GeM Merchant would allow domestic online merchants to offer their international customers the ability, at the time of

¹ Notice of the United States Postal Service of Market Test of Experimental Product- Global eCommerce Marketplace (GeM) Merchant Solution and Notice of Filing GeM Merchant Model Contract and Application for Non-Public Treatment of Materials Filed Under Seal, March 16, 2016 (Notice).

purchase, to prepay the estimated duties and taxes that the foreign country's customs agency will assess upon the shipment's arrival in the foreign destination. Notice at 2.

II. BACKGROUND

According to the Postal Service, GeM Merchant constitutes a novel eCommerce service for domestic online merchants and their international customers. *Id.* The Postal Service explains that at the time of purchase, GeM Merchant would allow international customers of domestic online merchants to prepay estimated duties and taxes. *Id.* The Postal Service describes that the domestic merchant will receive the order and will prepare the item for domestic shipment to the GeM processing facility. *Id.* After the item arrives at the GeM processing facility, the Postal Service indicates that it or its supplier will inspect the item for verification and security, as well as prepare and arrange for the item's international shipment and delivery to the overseas address. *Id.*

A. Nature and Scope of the Proposed GeM Merchant Market Test

The Postal Service intends to offer GeM Merchant to a limited number of domestic online merchants through negotiated service agreements (NSAs) that would include, but not be limited to, localization, export compliance, delivery speed, and targeted marketing features. *Id.* Through the market test, the Postal Service plans to assess GeM Merchant's revenue potential, competitive price points, and potential for expansion. *Id.*

The Postal Service asserts that the proposed GeM Merchant market test would likely benefit the public by meeting the demands of domestic online merchants and their international customers. *Id.* at 7. The Postal Service anticipates that the GeM Merchant product would contribute to the Postal Service's financial stability by generating more outbound international package delivery opportunities. *Id.* at 7-8.

1. Duration

The Postal Service plans to begin the market test on or shortly after April 30, 2016, to run for 2 calendar years. *Id.* at 6. After determining the actual start date, the Postal Service intends to file a notice with the Commission providing the definite start date. *Id.* at 6 n.4. During the 2-year market test period, the Postal Service intends to offer NSAs with standard 1-year terms to domestic online merchants. *Id.* at 6. The Postal Service requests that the Notice serve as an application for extension under 39 U.S.C. 3641(d) for any NSAs that have terms that extend beyond the 2-year period of the market test. *Id.* The Postal Service represents the extension would be limited to satisfying existing contractual obligations and that it would not initiate any new agreements with merchants after the 2-year period of the market test. *Id.* at 6-7. If the market test is successful, the Postal Service states that it would seek permanent product status for GeM Merchant. *Id.* at 7.

2. Geographic Markets

According to the Postal Service, because GeM Merchant is an international product offered to select domestic merchants through NSAs rather than a retail service offered to the American public, the geographical scope analysis under 39 CFR 3035.3(a)(2)(iv) is not germane to this market test. *Id.* The Postal Service represents that it intends to offer GeM Merchant using two processing locations and to execute contracts with few merchants, *i.e.*, less than 1 percent of the overall domestic merchant target segment. *Id.*

3. Revenues

The Postal Service does not request a waiver of the \$10 million, as adjusted for inflation, annual revenue limitation at this time. *Id.*; see 39 U.S.C. 3641(e). If market test revenues approach the cap, the Postal Service states that it will submit an

application for exemption from the \$10 million limitation under 39 U.S.C. 3641(e)(2) and 39 CFR 3035.16. Notice at 7.

4. Data Collection Plan

The Postal Service proposes to report the costs, revenues, and volumes associated with each agreement on a quarterly basis. *Id.* at 8; see 39 CFR 3035.20.

B. Statutory Authority

The Postal Service asserts that the proposed GeM Merchant market test satisfies the conditions on market tests of experimental products. Notice at 3; see 39 U.S.C. 3641(b). The Postal Service submits that GeM Merchant is significantly different from all products offered within the past 2 years. Notice at 3; see 39 U.S.C. 3641(b)(1). The Postal Service states that GeM Merchant would offer a new feature: the ability for a consumer to prepay estimated foreign duties and taxes at the time of purchase. Notice at 4.

The Postal Service does not expect GeM Merchant to create an “unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, with regard to any other party (including small businesses).” *Id.* at 5 (quoting 39 U.S.C. 3641(b)(2)); see 39 U.S.C. 3641(b)(2). The Postal Service states that at least four companies presently offer similar services, including one small business, which the Postal Service has contracted with. Notice at 5. Furthermore, the Postal Service represents that the proposed GeM Merchant market test would not directly compete with small businesses offering niche regional and freight-forwarding services because those small businesses serve a different market than the end-to-end GeM Merchant product. *Id.*

The Postal Service classifies GeM Merchant as a competitive product, asserting that GeM Merchant is designed for international packages and are unlikely to contain any letters, and thus, do not fall under the Private Express Statutes. *Id.* at 6; see 39 U.S.C. 3641(b)(3). The Postal Service asserts that it faces significant competition in the

outbound international package delivery marketplace, including major competitors with products for facilitating outbound international shipments with duties and taxes paid at the time of purchase. Notice at 6.

III. CONTENTS OF FILING

To support its Notice, the Postal Service filed its proposed changes to the Mail Classification Schedule, as well as redacted versions of the GeM Merchant model contract, GeM Merchant price ranges summary, and supporting financial workpapers. The Postal Service also submitted an application for non-public treatment of materials requesting that unredacted versions of the GeM Merchant model contract, GeM Merchant price ranges summary, and related financial information remain under seal. *Id.* Attachment 1.

IV. NOTICE OF COMMISSION ACTION

The Commission establishes Docket No. MT2016-1 to consider matters raised by the Notice. The Commission invites comments on whether the Postal Service's filing is consistent with the requirements of 39 U.S.C. 3641 and 39 CFR part 3035. Comments are due no later than April 11, 2016. The public portions of these filings can be accessed via the Commission's website (<http://www.prc.gov>).

The Commission appoints James Waclawski to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

V. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. MT2016-1 to consider the matters raised by the Notice.

2. Pursuant to 39 U.S.C. 505, James Wacławski is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).
3. Comments are due no later than April 11, 2016.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Stacy L. Ruble
Secretary